IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2288 OF 2003.
IN
SUIT NO. 979 OF 2001

Sureshkumar Ranmalji Jain.] .. Plaintiff

Versus

Instaflow.] .. Defendants

Mr.H.V. Chande for the plaintiff.

None for defendants.

CORAM: ANOOP V. MOHTA, J.

DATED: 16TH SEPTEMBER, 2005

P.C. :

1. Heard. This Notice of Motion has been taken out by the plaintiff in a money suit as defendants, inspite of a service, have failed and neglected to file Written Statement.

2. By an order dated 19th June, 2002, the Court transferred the suit to the commercial causes. It was directed that Written Statement be filed within eight weeks from the date of the said order. As the suit and the documents filed therein do not show that the amounts

were ascertained, therefore, it was not treated as a Summary Suit.

3. The consequences of not filing of Written Statement, inspite of the order dated 19th June, 2002, cannot be overlooked. As the suit has already been transferred to the commercial causes and as admittedly all the envelopes have returned with the remark "not claimed and returned to sender", if it amounts to proper service as contemplated under the law. The Office to endorse accordingly. In the present case, the Affidavit of Service is dated 14th September, 2005. Considering this, the Suit No. 979 of 2001 may set down for judgment for want of Written Statement against defendants, if all provisions, as required under the Rules, have been complied with.

4. The Notice of Motion is accordingly disposed of.

[ANOOP V. MOHTA, J.]

[srpasha@hc]